

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF PUERTO RICO

3 UNITED STATES OF AMERICA,

4
5 Plaintiff,

6 v.

7 RENE VAZQUEZ-BOTET,

8 Defendant.

Criminal No. 04-160 (JAF)

9 **O R D E R**

10 Defendant René Vázquez-Botet requests the unsealing of the
11 following documents:

12 Docket Document No. 319: "Motion to Seal" filed by a potential
13 witness on October 10, 2006;

14 Docket Document No. 320: "Motion to Quash" criminal trial
15 subpoena filed by a potential witness on October 10, 2006;

16 Docket Document No. 328: "Sealed Order" setting an in-chambers
17 conference in reference to Docket Document No. 320, entered
18 October 13, 2006;

19 Docket Document No. 329: "Sealed Order" in reference to
20 redactions to the grand-jury testimony of codefendant Marcos Morell-
21 Corrada;

22 Docket Document No. 332: Codefendant René Vázquez-Botet's
23 "Sealed Response" to motions to quash two criminal trial subpoenas,
24 filed on October 16, 2006;

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1 Docket Document No. 341: "Supplemental Memorandum of Law in
2 Support of Motion to Quash" by one of two non-party witnesses, filed
3 on October 19, 2006;

4 Docket Document No. 345: "Sealed Order" granting motions to
5 quash criminal trial subpoenas by the two non-party witnesses and a
6 corporation, entered by the court on October 19, 2006;

7 Docket Document No. 346: "Court's Exhibit 2" to sealed "Offer of
8 Proof Hearing" on the issue of the request to quash subpoenas, held
9 on October 16, 2006, and which resulted in the entry of the order at
10 Docket Document No. 345;

11 Docket Document No. 348: "Sealed Transcript" of the hearing to
12 determine relevancy held on October 16, 2006;

13 Docket Document No. 356: "Sealed Order" denying Fed. R. Crim.
14 P. 29 motions by both defendants, filed October 24, 2006;

15 Docket Document No. 357: "Sealed Order" resolving dispute over
16 the production of FBI investigative records in reference to alleged
17 money-laundering activities by a government trial witness, entered
18 October 24, 2006;

19 Docket Document No. 374: "Sealed Order" denying relief related
20 to relevancy in reference to Crim. No. 97-091 (JAF), United States v.
21 Kourí-Pérez, filed on October 27, 2006; and

22 Docket Document No. 397: "Sealed Order" denying codefendant
23 Vázquez-Botet's request to recall a prosecution witness, filed
24 October 30, 2006.

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1 Having examined the sealed documents, we now unseal Docket
2 Document Nos. 329, 356, and 374. Originally, these documents were
3 sealed to prevent unnecessary prejudicial publicity to defendants'
4 case. At this stage - post-conviction of both defendants and prior
5 to sentencing, there is no impediment to the unsealing of these three
6 documents.

7 Regarding the other docket entries, the court **DENIES** the request
8 to unseal. Movant continues with his efforts to confuse the trial
9 issues by wrongfully involving third parties in these proceedings,
10 where the only illegal conduct was that for which defendant was
11 charged and convicted. This record will reflect that the court
12 patiently dealt with the barrage of unsupported allegations against
13 third parties. Movant was given ample opportunity to establish
14 relevancy to the issues at bar and failed in every respect.

15 This court has an obligation not to allow unsupported smearing
16 and stigmatization of one trial witness and two potential witnesses
17 and a related corporation whose motions to quash subpoenas were
18 granted. There is no reason, factual or legal, supporting any claim
19 that these issues are relevant to sentencing or to a potential
20 disposition of any motion for bail pending appeal. Rightfully so,
21 movant has the right to challenge through the appeal process each and
22 every relevant ruling by this court throughout the trial. To achieve
23 this goal, there is no need to unseal the documents in question. The
24 content of all the documents is known to movant and his counsel.

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1 They participated in the events and were notified with copies as is
2 customarily done. The Court of Appeals can entertain any challenge
3 based on the documents. These are sealed only for public
4 consumption, not for review by the Court of Appeals.

5 The court's documents that remain sealed will not be used with
6 my consent to confuse issues. In quashing Defendant Vázquez-Botet's
7 subpoenas and sealing relevant portions of the record, we correctly
8 kept out irrelevant and inadmissible material, thus protecting a
9 government trial witness and two defense-subpoenaed witnesses and a
10 corporation from harassment and embarrassment.

11 This Order disposes of Docket Document Nos. 431, 432, 435, 441,
12 and 438.

13 **IT IS SO ORDERED.**

14 San Juan, Puerto Rico, this 18th day of January, 2006.

15 S/José Antonio Fusté
16 JOSE ANTONIO FUSTE
17 U. S. District Judge